Right to Counsel Legislative Updates

January 18, 2019

**MO HB 42**
This bill is sponsored by Representative Ingrid Burnett (D) and states that if a child waives his or her right to counsel, such waiver shall be made in open court and be recorded and in writing. In determining whether a child has knowingly, intelligently, and voluntarily waived his or her right to counsel, the court shall look to the totality of the circumstances, as specified in the bill. If a child waives his or her right to counsel, the waiver shall only apply to that particular proceeding. The bill also specifies certain proceedings in which a child’s right to counsel shall not be waived. The bill is currently pre-filed as of 12/03/18.

**NV AB 81**
This bill is currently sponsored by the Assembly Committee on Judiciary. The bill does several things, including (1) creates the Office of Indigent Defense Services within the Office of the Governor to oversee criminal defense services provided to indigent persons in the state, (2) creates the Board on Indigent Defense Services, consisting of various appointed persons to oversee the Executive Director and establish certain policies, (3) requires the Board to establish the maximum amount a county may be required to pay for the provision of indigent defense services, (4) authorizes the Board to adopt regulations governing indigent defense services, (5) provides for the transfer of responsibility for the provision of indigent defense services from a county to the State Public Defender in certain circumstances, and (6) allows such services to be transferred back to the county in certain circumstances. The bill is currently pre-filed as of 11-26-18.

**OH HB 781 and OH SB 345**
Both of these bills share the same text and goals. The House Bill is currently sponsored by Representative Shane Wilkin (R). The Senate Bill is currently sponsored by Senator Bob Peterson (R). The bills create two separate pools of money within the Treasury, which are to be used for the deferment of costs associated with capital cases. One is to be used by the county prosecutor, while the other is to be used by the state public defender. The funds will be controlled by the attorney general and distributed to pay bills after approval by the court. Additional funds for each capital case will be considered under a joint request by the prosecutor and public defender. When the fund is out of money, the county and the state public defender will be responsible for their own costs. The House Bill was introduced on 12-06-18, and the Senate Bill was introduced on 12-10-18.

**TX HB 221**
This bill is currently sponsored by Representative Barbara Gervin-Hawkins (D). The bill strengthens the requirements for public defenders who will be providing representation in certain capital cases. The bill would require that public defenders in certain capital cases have experience in death penalty cases, including experience in the penalty phase of the trial or appeal, the use of mental or forensic expert witnesses, and the use of mitigating evidence at the penalty portion of the trial or appeal. The bill was filed as of 11-12-18.

**UT SB 32**
This bill is currently sponsored by Senator Todd Weiler (R). The bill modifies provisions related to indigent defense, including a minor’s right to counsel, new legal definitions of who qualifies as indigent, methods by which defense counsel will be selected, how counsel will be paid, and reforms for how
Indigent Defense Fund Board members are chosen and for how long a term should be. The bill has been sent to relevant state agencies for fiscal input as of 12-21-18.